

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

KEVIN M. CALISSIE,

Plaintiff,

v.

Case No. 2:12-cv-00834

RANDY GILKENSON,

Defendant.

PROPOSED FINDINGS AND RECOMMENDATION

On March 23, 2012, the Clerk's Office received a letter-form Complaint from the plaintiff concerning an alleged incident of the use of excessive force against the plaintiff by the defendant, a correctional officer at the Mount Olive Correctional Complex. The letter from the plaintiff was addressed to the "FBI Building." (ECF No. 1.)

On March 23, 2012, the instant civil action was opened and the plaintiff was sent a Complaint form and an Application to Proceed Without Prepayment of Fees and Costs, with instructions to return the completed forms within 30 days. This new civil matter is assigned to the Honorable John T. Copenhaver, Jr., United States District Judge, and it has been referred to the undersigned United States Magistrate Judge for submission of proposed findings and a recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

The plaintiff has not returned the required forms and he has taken no action since that date. In light of the plaintiff's failure to file a form Complaint and to pay the \$350 filing fee or to file an Application to Proceed Without Prepayment of Fees and Costs within 30 days as directed, it is respectfully **RECOMMENDED** that the


presiding District Judge **DISMISS** Case No. 2:12-cv-00834, without prejudice, for failure to prosecute.

The plaintiff is notified that this Proposed Findings and Recommendations is hereby **FILED**, and a copy will be submitted to the Honorable John T. Copenhaver, Jr., United States District Judge. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(d) and 72(b), Federal Rules of Civil Procedure, the parties shall have fourteen days (filing of objections) and three days (mailing) from the date of filing this Proposed Findings and Recommendations within which to file with the Clerk of this Court, specific written objections, identifying the portions of the Proposed Findings and Recommendations to which objection is made, and the basis of such objection. Extension of this time period may be granted by the presiding District Judge for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984). Copies of such objections shall be provided to Judge Copenhaver.

The Clerk is directed to file this Proposed Findings and Recommendations and to mail a copy of the same to the plaintiff.

May 17, 2012


Mary E. Stanley
United States Magistrate Judge